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GOVERNMENT OF KERALA

Health (G) Department

NOTIFICATION

No. 20605/G3/76/HD. *Dated, Trivandrum, 24th March 1976.*

The following Act of Parliament published in Part II Section I of the Gazette of India dated 17th February 1976, is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 17th of February 1976.

By order of the Governor,
C. P. Ramakrishna Pillai,
Secretary to Government.

THE PREVENTION OF FOOD ADULTERATION (AMENDMENT) ACT, 1976

No. 34 of 1976

[*17th February, 1976*]

An Act further to amend the prevention of food Adulteration Act, 1954.

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title and Commencement.*—(1) This Act may be called the Prevention of Food Adulteration (Amendment) Act, 1976.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

33/1474/MC.

2. *Amendment of section* 2.—In section 2 of the Prevention of Food Adulteration Act, 1954 (37 of 1954) (hereinafter referred to as the principal Act),—

(a) clause (i) shall be re-numbered as clause (ia) thereof and before that clause as so re-numbered, the following clause shall be inserted, namely:—

'(i) "Adulterant" means any material which is or could be employed for the purposes of adulteration;';

(b) in clause (ia) as so re-numbered,—

(i) in sub-clause (f), the word "disgusting," shall be omitted;

(ii) for sub-clause (j), the following sub-clause shall be substituted, namely:—

"(j) if any colouring matter other than that prescribed in respect thereof is present in the article, or if the amounts of the prescribed colouring matter which is present in the article are not within the prescribed limits of variability;";

(iii) for sub-clause (l), the following sub-clauses and *Explanation* shall be substituted, namely:—

"(l) if the quality or purity of the article falls below the prescribed standard or its constituents are present in quantities not within the prescribed limits of variability, which renders it injurious to health;

(m) if the quality or purity of the article falls below the prescribed standard or its constituents are present in quantities not within the prescribed limits of variability but which does not render it injurious to health:

Provided that, where the quality or purity of the article, being primary food, has fallen below the prescribed standards or its constituents are present in quantities not within the prescribed limits of variability, in either case, solely due to natural causes and beyond the control of human agency, then, such article shall not be deemed to be adulterated within the meaning of this sub-clause.

Explanation.—Where two or more articles of primary food are mixed together and the resultant article of food—

(a) is stored, sold or distributed under a name which denotes the iingredients thereof; and

(b) is not injurious to health,

then, such resultant article shall not be deemed to be adulterated within the meaning of this clause;";

(c) in clause (iv), the following proviso shall be inserted at the end, namely:—

"Provided that no person who has any financial interest in the manufacture, import or sale of any article of food shall be appointed to be a Director under this clause;";

(d) for clause (v), the following clause shall be substituted, namely:—

'(v) "food" means any article used as food or drink for human consumption other than drugs and water and includes—

(a) any article which ordinarily enters into, or is used in the composition or preparation of, human food,

(b) any flavouring matter or condiments, and

(c) any other article which the Central Government may, having regard to its use, nature, substance or quality, declare, by notification in the Official Gazette, as food for the purposes of this Act;';

(e) for clause (vi), the following clause shall be substituted, namely:—

'(vi) "Food (Health) Authority" means the Director of Medical and Health Services or the Chief Officer in charge of Health administration in a State, by whatever designation he is known, and includes any officer empowered by the Central Government or the State Government, by notification in the Official Gazette, to exercise the powers and perform the duties of the Food (Health) Authority under this Act with respect to such local area as may be specified in the notification;';

(f) after clause (viii), the following clauses shall be inserted, namely:—

'(viiia) "Local (Health) Authority", in relation to a local area, means the officer appointed by the Central Government or the State Government, by notification in the Official Gazette, to be in charge of Health administration in such area with such designation as may be specified therein;

(viiib) "manufacture" includes any process incidental or ancillary to the manufacture of an article of food;';

(g) after clause (xii), the following clause shall be inserted, namely:—

'(xiia) "primary food" means any article of food, being a produce of agriculture or horticulture in its natural form;'.

3. *Amendment of section* 3.—In section 3 of the principal Act,—

(a) in sub-section (2),—

(i) for clause (b), the following clause shall be substituted, namely:—

"(b) the Director of the Central Food Laboratory or, in a case where more than one Central Food Laboratory is established, the Directors of such Laboratories, *ex officio*";

(ii) for clause (g), the following clauses shall be substituted, namely:—

"(g) one representative each, nominated by the Central Government, to represent the agricultural, commercial and industrial interests;

(gg) five representatives nominated by the Central Government to represent the consumers' interest one of whom shall be from the hotel industry;";

(b) In sub-section (3) for the brackets and letter "(g),", the brackets and letters "(g), (gg)," shall be substituted.

4. *Insertion of new section 3 A.*—After section 3 of the principal Act, the following section shall be inserted, namely:—

"3A. *Appointment of Secretary and other staff.*—(1) The Central Government shall appoint a Secretary to the Committee who shall, under the control and direction of the Committee, exercise such powers and perform such duties as may be prescribed or as may be delegated to him by the Committee.

(2) The Central Government shall provide the Committee with such clerical and other staff as that Government considers necessary.".

5. *Amendment of section 4.*—In section 4 of the Principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Central Government shall, by notification in the Official Gazette, establish one or more Central Food Laboratory or Laboratories to carry out the functions entrusted to the Central Food Laboratory by this Act or any rules made under this Act:

Provided that the Central Government may, by notification in the Official Gazette, also specify any laboratory or institute as a Central Food Laboratory for the purposes of this Act.";

(b) in sub-section (2), for clause (a), the following clause shall be substituted, namely:—

"(a) the functions of a Central Food Laboratory and the local area or areas within which such functions may be carried out;".

6. *Amendment of Section 7.*—In section 7 of the principal Act,—

(a) in clause (iv), the word "or" shall be omitted;

(b) in clause (v), the word "or" shall be inserted at the end;

(c) after clause (v) as so amended, the following clause shall be inserted, namely:—

"(vi) any adulterant.";

(d) the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*—For the purposes of this section, a person shall be deemed to store any adulterated food or misbranded food or any article of food referred to in clause (iii) or clause (iv) or clause (v) if he stores such food for the manufacture therefrom of any article of food for sale.".

7. *Amendment of Section* 8.—In section 8 of the principal Act, after the proviso, the following proviso shall be inserted, namely:—

"Provided further that different public analysts may be appointed for different articles of food.",

8. *Amendment of section 10.*—In Section 10 of the principal Act,—

(a) in sub-section (1),—

(i) for clause (c), the following clause shall be substituted, namely:—

"(c) with the previous approval of the Local (Health) Authority having jurisdiction in the local area concerned, or with the previous approval of the Food (Health) Authority, to prohibit the sale of any article of food in the interest of public health.";

(ii) the following *Explanation* shall be inserted at the end, namely:—

'*Explanation.*—For the purposes of sub-clause (iii) of clause (a), "consignee" does not include a person who purchases or receives any article of food for his own consumption;';

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Any food inspector may enter and inspect any place where any article of food is manufactured, or stored for sale, or stored for the manufacture of any other article of food for sale, or exposed or exbihited for sale or where any adulterant is manufactured or kept, and take samples of such article of food or adulterant for analysis:

Provided that no sample of any article of food, being primary food, shall be taken under this sub-section if it is not intended for sale as such food.";

(c) in sub-section (4), in the opening paragraph, the following hall be inserted at the end, namely:—

"and he shall, in either case, take a sample of such article and submit the same for analysis to a public analyst:";

(d) after sub-section (4), the following sub-section shall be inserted, amely:—

"(4A) Where any article of food seized under sub-section (4) is of a perishable nature and the Local (Health) Authority is satisfied

that such article of food is so deteriorated that it is unfit for human consumption, the said Authority may, after giving notice in writing to the vendor, cause the same to be destroyed.";

(e) in sub-section (5),—

(i) for the first proviso, the following proviso shall be substituted, namely:—

"Provided that the power to break open the package or door shall be exercised only after the owner or any other person in charge of the package or, as the case may be, in occupation of the premises, if he is present therein, refuses to open the package or door on being called upon to do so, and in either case after recording the reasons for doing so:";

(ii) in the second proviso, for the words and figures "Code of Criminal Procedure, 1898 (5 of 1898)", the words and figures "Code of Criminal Procedure, 1973 (2 of 1974)", shall be substituted;

(f) in sub-section (6),—

(i) for the portion beginning with the words "Any material" and ending with the words "for purposes of adulteration", the following shall be substituted, namely:—

"Any adulterant found in the possession of a manufacturer or distributor of, or dealer in, any article of food or in any of the premises occupied by him as such";

(ii) for the words "may be seized by the food inspector", the words "and any books of account or other documents found in his possession or control and which would be useful for, or relevant to, any investigation or proceeding under this Act, may be seized by the food inspector" shall be substituted;

(iii) for the words "if necessary a sample of such material", the words "a sample of such adulterant" shall be substituted;

(iv) the following proviso shall be inserted at the end, namely:—

"Provided that no such books of account or other documents shall be seized by the food inspector except with the previous approval of the authority to which he is officially subordinate.";

(g) after sub-section (7), the following sub-sections shall be inserted, namely:—

"(7A) Where any books of account or other documents are seized under sub-section (6), the food inspector shall, within a period not exceeding thirty days from the date of seizure, return the same to the person from whom they were seized after copies thereof or extracts therefrom as certified by that person in such manner as may be prescribed have been taken:

Provided that where such person refuses to so certify, and a prosecution has been instituted against him under this Act, such books of account or other documents shall be returned to him only after copies thereof or extracts therefrom as certified by the court have been taken.

(7B) When any adulterant is seized under sub-section (6), the burden of proving that such adulterant is not meant for purposes of adulteration shall be on the person from whose possession such adulterant was seized.";

(h) in sub-section (8), for the words and figures "under section 57 of the Code of Criminal Procedure, 1898 (5 of 1898)", the words and figures "under section 42 of the Code of Criminal Procedure, 1973 (2 of 1974)" shall be substituted;

(i) in sub-section (9),—

(A) in clause (a), after the words "article of food", the words "or adulterant" shall be inserted;

(B) for the words "with fine which may extend to five hundred rupees", the words "with fine which shall not be less than five hundred rupees but which may extend to one thousand rupees" shall be substituted.

9. *Amendment of section* 11.—In Section 11 of the principal Act,—

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

"(1) When a food inspector takes a sample of food for analysis, he shall—

(a) give notice in writing then and there of his intention to have it so analysed to the person from whom he has taken the sample and to the person, if any, whose name, address and other particulars have been disclosed under section 14A;

(b) except in special cases provided by rules under this Act, divide the sample then and there into three parts and mark and seal or fasten up each part in such a manner as its nature permits and take the signature or thumb impression of the person from whom the sample has been taken in such place and in such manner as may be prescribed:

Provided that where such person refuses to sign or put his thumb impression the food inspector shall call upon one or more witnesses and take his or their signatures or thumb impressions, as the case may be, in lieu of the signature or thumb impression of such person;

(c) (i) send one of the parts for analysis to the public analyst under intimation to the Local (Health) Authority; and

(ii) send the remaining two parts to the Local (Health) Authority for the purposes of sub-section (2) of this section and sub-sections (2A) and (2E) of section 13.

(2) Where the part of the sample sent to the public analyst under sub-clause (i) of clause (c) of sub-section (1) is lost or damaged, the Local (Health) Authority shall, on a requisition made to it by the public analyst or the food inspector despatch one of the parts of the sample sent to it under sub-clause (ii) of the said clause (c) to the public analyst for analysis.";

(b) in sub-section (3),—

(i) after the words "article of food", the words "or adulterant" shall be inserted;

(ii) for the words "the food inspector shall send a sample of it", the words "the food inspector shall, by the immediately succeeding working day, send a sample of the article of food or adulterant or both, as the case may be," shall be substituted;

(c) in sub-section (4),—

(i) for the opening paragraph, the following paragraph shall be substituted, namely:—

"(4) An article of food seized under sub-section (4) of section 10, unless destroyed under sub-section (4A) of that section, and any adulterant seized under sub-section (6) of that section shall be produced before a magistrate as soon as possible and in any case not later than seven days after the receipt of the report of the public analyst:";

(ii) the first proviso shall be omitted and in the second proviso, the word "further" shall be omitted;

(d) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) If it appears to the magistrate on taking such evidence as he may deem necessary—

(a) that the article of food produced before him under sub-section (4) is adulterated or misbranded, he may order it—

(i) to be forfeited to the Central Government, the State Government or the local authority, as the case may be; or

(ii) to be destroyed at the cost of the owner or the person from whom it was seized so as to prevent its being used as human food; or

(iii) to be so disposed of as to prevent its being again exposed for sale or used for food under its deceptive name; or

(iv) to be returned to the owner, on his executing a bond with or without sureties, for being sold under its appropriate name or, where the magistrate is satisfied that the article of food is capable of being made to conform to prescribed standards for human consumption after reprocessing, for being sold after reprocessing under the supervision of such officer as may be specified in the order;

(b) that the adulterant seized under sub-section (6) of section (10) and produced before him is apparently of a kind which may be employed for purposes of adulteration and for the possession of which the manufacturer, distributor or dealer, as the case may be, is unable to account satisfactorily, he may order it to be forfeited to the Central Government, the State Government or the local authority, as the case may be.";

(e) in sub-section (6), for the portion beginning with the words "If it appears" and ending with the words "article was taken", the following shall be substituted, namely:—

"If it appears to the magistrate that any such—

(a) article of food is not adulterated; or

(b) adulterant which is purported to be an adulterant is not an adulterant,

the person from whose possession the article of food or adulterant was taken".

10. *Amendment of section* 13.—In section 13 of the principal Act,—

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

"(1) The public analyst shall deliver, in such form as may be prescribed, a report to the Local (Health) Authority of the result of the analysis of any article of food submitted to him for analysis.

(2) On receipt of the report of the result of the analysis under sub-section (1) to the effect that the article of food is adulterated, the Local (Health) Authority shall, after the institution of prosecution against the person from whom the sample of the article of food was taken and the person, if any, whose name, address and other particulars have been disclosed under section 14A, forward in such manner as may be prescribed, a copy of the report of the result of the analysis to such person or persons, as the case may be, informing such person or persons that if it is so desired, either or both of them may make an application to the court within a period of ten days from the date of receipt of the copy of the report to get the sample of the article of food kept by the Local (Health) Authority analysed by the Central Food Laboratory.

(2A) When an application is made to the court under sub-section (2), the court shall require the Local (Health) Authority to forward the part or parts of the sample kept by the said Authority and upon such requisition being made, the said Authority shall forward the part or parts of the sample to the court within a period of five days from the date of receipt of such requisition.

(2B) On receipt of the part or parts of the sample from the Local (Health) Authority under sub-section (2A), the court shall first ascertain that the mark and seal or fastening as provided in clause (b) of sub-section (1) of section 11 are intact and the signature or thumb impression, as the case may be, is not tampered with, and despatch the part or, as the case may be, one of the parts of the sample under its own seal to the Director of the Central Food Laboratory who shall thereupon send a certificate to the court in the prescribed form within one month from the date of receipt of the part of the sample specifying the result of the analysis.

(2C) Where two parts of the sample have been sent to the court and only one part of the sample has been sent by the court to the Director of the Central Food Laboratory under sub-section (2B), the court shall, as soon as practicable, return the remaining part to the Local (Health) Authority and that Authority shall destroy that part after the certificate from the Director of the Central Food Laboratory has been received by the court:

Provided that where the part of the sample sent by the court to the Director of the Central Food Laboratory is lost or damaged, the court shall require the Local (Health) Authority to forward the part of the sample, if any, retained by it to the court and on receipt thereof, the court shall proceed in the manner provided in sub-section (2B).

(2D) Until the receipt of the certificate of the result of the analysis from the Director of the Central Food Laboratory, the court shall not continue with the proceedings pending before it in relation to the prosecution.

(2E) If, after considering the report, if any, of the food inspector or otherwise, the Local (Health) Authority is of the opinion that the report delivered by the public analyst under sub-section (1) is erroneous, the said Authority shall forward one of the parts of the sample kept by it to any other public analyst for analysis and if the report of the result of the analysis of that part of the sample by that other public analyst is to the effect that the article of food is adulterated, the provisions of sub-sections (2) to (2D) shall, so far as may be apply.";

(b) in sub-sections (3) and (4), for the words, brackets and figure "under sub-section (2)", the words, brackets, figure and letter "under sub-section (2B)" shall be substituted;

(c) in sub-section, (5), for the proviso, the following proviso shall be substituted, namely:—

"Provided that any document purporting to be a certificate signed by the Director of the Central Food Laboratory [not being a cetificate with respect to the analysis of the part of the sample of any article of food referred to in the proviso to sub-section (1A) of section 16] shall be final and conclusive evidence of the facts stated therein.";

(d) the following *Explanation* shall be inserted at the end, namely:—

'*Explanation.*—In this section, and in clause (f) of sub-section (1) of section 16, "Director of the Central Food Laboratory" shall include the officer for the time being in charge of any Food Laboratory (by whatever designation he is known) recognised by the Central Government for the purposes of this section.'.

11. *Amendment of section* 14.—in section 14 of the principal Act,—

(a) for the words "manufacturer, distributor or dealer of", the words "manufacturer or distributor of, or dealer in," shall be substituted;

(b) before the *Explanation*, the following proviso shall be inserted, namely:—

"Provided that a bill, cash memorandum or invoice in respect of the sale of any article of food given by a manufacturer or distributor of, or dealer in, such article to the vendor thereof shall be deemed to be a warranty given by such manufacturer, distributor or dealer under this section.".

12. *Amendment of section* 16.—In section 16 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Subject to the provisions of sub-section (1A), if any person—

(a) whether by himself or by any other person on his behalf, imports into India or manufactures for sale, or stores, sells or distributes any article of food—

(i) which is adulterated within the meaning of sub-clause (m) of clause (ia) of section 2 or misbranded within the meaning of clause (ix) of that section or the sale of which is prohibited under any provision of this Act or any rule made thereunder or by an order of the Food (Health) Authority;

(ii) other than an article of food referred to in sub-clause (i) in contravention of any of the provisions of this Act or of any rule made thereunder; or

(b) whether by himself or by any other person on his behalf, imports into India or manufactures for sale, or stores, sells or distributes any adulterant which is not injurious to health; or

(c) prevents a food inspector from taking a sample as authorised by this Act; or

(d) prevents a food inspector from exercising any other power conferred on him by or under this Act; or

(e) being a manufacturer of an article of food, has in his possession, or in any of the premises occupied by him, any adulterant which is not injurious to health; or

(f) uses any report or certificate of a test or analysis made by the Director of the Central Food Laboratory or by a public analyst or any extract thereof for the purpose of advertising any article of food; or

(g) whether by himself or by any other person on his behalf, gives to the vendor a false warranty in writing in respect of any article of food sold by him,

he shall, in addition to the penalty to which he may be liable under the provisions of section 6, be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years, and with fine which shall not be less than one thousand rupees:

Provided that—

(i) if the offence is under sub-clause (i) of clause (a) and is with respect to an article of food, being primary food, which is adulterated due to human agency or is with respect to an article of food which is misbranded within the meaning of sub-clause (k) of clause (ix) of section 2; or

(ii) if the offence is under sub-clause (ii) of clause (a), but not being an offence with respect to the contravention of any rule made under clause (a) or clause (g) of sub-section (1A) of section 23 or under clause (b) of sub-section (2) of section 24.

the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term which shall not be less than three months but which may extend two years, and with fine which shall not be less than five hundred rupees:

Provided further that if the offence is under sub-clause (ii) of clause (a) and is with respect to the contravention of any rule made under clause (a) or clause (g) of sub-section (1A) of section 23 or under clause (b) of sub-section (2) of section 24, the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term which may extend to three months and with fine which may extend to five hundred rupees";

(b) sub-section (1A) shall be renumbered as sub-section (1AA) and before that sub-section as so re-numbered, the following sub-section shall be inserted, namely:—

"(1A) If any person whether by himself or by any other person on his behalf, imports into India or manufactures for sale, or stores, sells of distributes,—

(i) any article of food which is adulterated within the meaning of any of the sub-clauses (e) to (l) (both inclusive) of clause (ia) of section 2; or

(ii) any adulterant which is injurious to health,

he shall, in addition to the penalty to which he may be liable under the provisions of section 6, be punishable with imprisonment for a term which shall not be less than one year but which may extend to six years and with fine which shall not be less than two thousand rupees:

Provided that if such article of food or adulterant, when consumed by any person is likely to cause his death or is likely to cause such harm on his body as would amount to grievous hurt within the meaning of section 320 of the Indian Penal Code, (45 of 1860), he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to term of life and with fine which shall not be less than five thousand rupees.";

(c) for sub-section (1B), the following sub-section shall be substituted, namely:—

"(1B) If any person in whose safe custody any article of food has been kept under sub-section (4) of section 10, sells or distributes such article which is found by the magistrate before whom it is produced to be adulterated within the meaning of sub-clause (h) of clause (ia) of section 2 and which, when consumed by any person is likely to cause his death or is likely to cause such harm on his body as would amount to grievous hurt within the meaning of section 320 of the Indian Penal Code, (45 of 1860), then notwithstanding anything contained in sub-section (1AA), he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to term of life and with fine which shall not be less than five thousand rupees.".

13. *Insertion of new section* 16A.—After section 16 of the principal Act, the following section shall be inserted, namely:—

"16A. *Power of court to try cases summarily.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), all offences under sub-section (1) of section 16 shall be tried in a summary way by a Judicial Magistrate of the first class specially empowered in this behalf by the State Government or by a Metropolitan Magistrate and the provisions of sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trial:

Provided that in the case of any conviction in a summary trial under this section, it shall be lawful for the Magistrate to pass a sentence of imprisonment for a term not exceeding one year:

Provided further that when at the commencement of, or in the course of, a summary trial under this section, it appears to the Magistrate that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Magistrate shall after hearing the parties, record an order to that effect and thereafter recall any witness who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code.".

14. *Substitution of new section for section* 17.—For section 17 of the Principal Act, the following section shall be substituted, namely:—

'17. *Offences by companies.*—(1) Where an offence under this Act has been committed by a company—

(a) (i) the person, if any, who has been nominated under sub-section (2) to be in charge of, and responsible to, the company for the conduct of the business of the company (hereafter in this section referred to as the person responsible), or

(ii) where no person has been so nominated, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company; and

(b) the company,

shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(2) Any company may, by order in writing, authorise any of its directors or managers (such manager being employed mainly in a managerial or supervisory capacity) to exercise all such powers and take all

such steps as may be necessary or expedient to prevent the commission by the company of any offence under this Act and may give notice to the Local (Health) Authority, in such form and in such manner as may be prescribed, that it has nominated such director or manager as the person responsible along with the written consent of such director or manager for being so nominated.

Explanation.—Where a company has different establishments or branches or different units in any establishment or branch, different persons may be nominated under this sub-section in relation to different establishments or branches or units and the person nominated in relation to any establishment, branch or unit shall be deemed to be the person responsible in respect of such establishment, branch or unit.

(3) The person nominated under sub-section (2) shall, until—

(i) further notice cancelling such nomination is received from the company by the Local (Health) Authority; or

(ii) he ceases to be a director or, as the case my be, manager of the company; or

(iii) he makes a request in writing to the Local (Health) Authority, under intimation to the company, to cancel the nomination [which request shall be complied with by the Local (Health) Authority],

whichever is the earliest, continue to be the person responsible:

Provided that where such person ceases to be a director or, as the case may be, manager of the company, he shall intimate the fact of such cesser to the Local (Health) Authority:

Provided further that where such person makes a request under clause (iii), the Local (Health) Authority shall not cancel such nomination with effect from a date earlier than the date on which the request is made.

(4) Notwithstanding anything contained in the foregoing sub-sections, where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, [not being a person nominated under sub-section (2)] such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) "company" means any body corporate and includes a firm or other association of individuals;

(b) "director", in relation to a firm, means a partner in the firm; and

(c) "manager', in relation to a company engaged in hotel industry, includes the person in charge of the catering department of any hotel managed or run by it.'.

15. *Amendment of section* 18.—In section 18 of the principal Act, the following proviso shall be inserted at the end, namely:—

"Provided that where the court is satisfied that the article of food is capable of being made to conform to prescribed standards for human consumption after reprocessing, the court may order the article of food to be returned to the owner, on his executing a bond with or without sureties, for being sold, subject to the other provisions of this Act, after reprocessing under the supervision of such officer as may be specified therein.".

16. *Amendment of section* 20.—In section 20 of the principal Act,—

(a) in sub-section (1),—

(i) for the words "No prosecution for an offence under this Act", the words, figures and letter "No prosecution for an offence under this Act, not being an offence under section 14 or section 14A," shall be substituted;

(ii) the words "or a local authority", at both the places where they occur, shall be omitted;

(b) for sub-section (2), the following sub-sections shall be substituted, namely:—

"(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974) an offence punishable under sub-section (1AA) of section 16 shall be cognizable and non-bailable.".

17. *Amendment of section* 20 *A*.—In section 20 A of the principal Act, for the words, brackets and figures "sub-section (1) of section 351 of the Code of Criminal Procedure, 1898 (5 of 1898)", the words, brackets and figures "sub-section (3) of section 319 of the Code of Criminal Procedure, 1973 (2 of 1974)" shall be substituted.

18. *Insertion of new section 20AA*.—After section 20 A of the principal Act, the following section shall be inserted, namely:—

"20AA. *Application of the Probation of Offenders Act* 1958 *and section* 360 *of the Code of Criminal Procedure* 1973.—Nothing contained in the probation of Offenders Act, 1958 (20 of 1958) or section 360 of the Code of Criminal Procedure, 1973 (2 of 1974), shall apply to a person convicted of an offence under this Act unless that person is under eighteen years of age."

19. *Substitution of new section for section* 21.—For section 21 of the principal Act, the following section shall be substituted, namely:—

"21. *Magistrate's power to impose enhanced penalties.*—Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973 (2 of 1974), it shall be lawful for any Metropolitan Magistrate or any Judicial Magistrate of the first class to pass any sentence authorised by this Act, except a sentence of imprisonment for life or for a term exceeding six years, in excess of his powers under the said section.".

20. *Insertion of new section* 22*A*.—After section 22 of the principal Act, the following section shall be inserted, namely:—

"22A. *Power of Central Government to give directions.*—The Central Government may give such directions as it may deem necessary to a State Government regarding the carrying into execution of all or any of the provisions of this Act and the State Government shall comply with such directions.".

21. *Amendment of section* 23.—In Section 23 of the principal Act,—

(*a*) sub-section (*1*) shall be re-numbered as sub-section (*1A*) and—

(*i*) before sub-section (*1A*) as so re-numbered, the following sub-section shall be inserted, namely:—

"(1) The Central Government may, after consultation with the Committee and after previous publication by notification in the Official Gazette, make rules to carry out the provisions of this Act:

Provided that consultation with the Committee may be dispensed with if the Central Government is of the opinion that circumstances have arisen which render it necessary to make rules without such consultation, but, in such a case, the Committee shall be consulted within six months of the making of the rules and the Central Government shall take into consideration any suggestions which the Committee may make in relation to the amendment of the said rules.";

(*ii*) in sub-section (*1A*) as so re-numbered,—

(*A*) for the words "The Central Government may, after consultation with the Committee and subject to the condition of previous publication, make rules—", the words "In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—" shall be substituted;

(*B*) in clause (d), the words "or to preventing adulteration" shall be inserted at the end;

(C) after clause (e), the following clause shall be inserted, namely:—

"(ee) defining the laboratories where samples of articles of food or adulterants may be analysed by public analysis under this Act;";

(D) after clause (h), the following clause shall be inserted, namely:—

"(hh) defining the methods of analysis;";

(b) in sub-section (2), for the words "which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following", the words "which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

22. *Amendment of section* 24.—In sub-section (2) of section 24 of the principal Act.—

(i) in clause (a) for, the words "and local authority", the words and brackets, "local authority and Local (Health) Authority under this Act" shall be substituted;

(ii) in clause (b), for the words "may be cancelled or forfeited", the words "may be suspended, cancelled or forfeited" shall be substituted.

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Secretary to the Government of India.

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